

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

MARCIE R. SALMON, )  
                        )  
Plaintiff,           )  
                        )  
v.                     )                      No. CIV-09-946-D  
                        )  
ARROW FINANCIAL SERVICES, LLC,        )  
                        )  
Defendant.           )

## ORDER

Before the Court is Plaintiff's Motion for Default Judgment [Doc. No. 20], asking the Court to enter a money judgment in favor of Plaintiff in accordance with Fed. R. Civ. P. 55. Defendant has timely objected to the Motion.

Plaintiff's Motion must be denied because Fed. R. Civ. P. 55 authorizes the entry of judgment only where "a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend." Fed. R. Civ. P. 55(a). In this case, Defendant has not failed to plead or otherwise defend. Defendant timely filed an answer to the Complaint. Therefore Fed. R. Civ. P. 55 is inapplicable.

Plaintiff, who appears *pro se*, specifically cites Fed. R. Civ. P. 55(b) in support of her motion. However, that provision of the Rule is expressly applicable only to circumstances governed by Fed. R. Civ. P. 55(a). Because these provisions apply only where a defendant is in default, they provide no basis for the relief requested in Plaintiff's motion.

Accordingly, Plaintiff's Motion [Doc. No. 20] is DENIED. This action will proceed as set forth in the Scheduling Order entered herein.

IT IS SO ORDERED this 19<sup>th</sup> day of November, 2009.

Willy A. Rehbein

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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE